

Political Monuments & "Cultural Property"

Anne-Marie Carstens

University of Baltimore School of Law

Familiar scenes of statue-toppling accompanied and followed the regime change that ended the prolonged Syrian armed conflict. The practice of removing, defacing, or decapitating monuments to political leaders has a pedigree going back to antiquity, but contemporary international law bars the unnecessary and intentional destruction, damage, and desecration of “cultural property” during an armed conflict, including in the immediate power vacuum of a regime change precipitated by hostilities. Violations of these protections can amount to an atrocity crime, as amply demonstrated in the International Criminal Court’s conviction of two perpetrators stemming from destruction at the World Heritage site of Timbuktu.

Given the expansive definition of cultural property, this article critically examines whether monuments that valorize leaders of a fallen political regime qualify as protected property, as well as the implicit related question of whether monument-felling in this context runs afoul of entrenched international legal protections. It finds the answer to the primary question knotted up with corollary debates over protection of “political” status and political groups, something denied in the crime of genocide but afforded in the crime of persecution, for example. Ultimately, the article maintains that many political monuments will qualify as protected “cultural property” and that decisions about their fate therefore should be reserved in most cases for post-conflict determination as a matter of domestic policy. Nonetheless, the article explores whether protection during armed conflict and occupation ever dissipates from certain monuments, even if they qualify, because such acts are deemed legally justified in certain circumstances.